

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA**

SCOTT T. BALLOCK,

Plaintiff,

v.

**CIVIL ACTION NO.: 1:17-CV-52
Honorable Irene M. Keeley**

**ELLEN RUTH COSTLOW,
STATE TROOPER MICHAEL KIEF,
STATE TROOPER RONNIE M.
GASKINS, AND STATE TROOPER
CHRIS BERRY,**

Defendants.

**DEFENDANTS STATE TROOPER MICHAEL KIEF,
STATE TROOPER RONNIE M. GASKINS, AND STATE TROOPER CHRIS BERRY'S
MOTION TO DISMISS**

Defendants State Trooper Michael Kief, State Trooper Ronnie M. Gaskins, and State Trooper Chris Berry (collectively, the “State Police Defendants”), by their counsel, move the Court, under Federal Rule of Civil Procedure 12(b)(6) to dismiss all claims against them. As set forth more fully in the accompanying memorandum of law, most of Mr. Ballock’s claims against the State Police Defendants are time-barred by the applicable statutes of limitation. For all of his claims, including those that were timely filed, Mr. Ballock fails to allege sufficient facts to make the claims plausible. In particular, Mr. Ballock’s related claims of malicious prosecution under both 42 U.S.C. § 1983 and West Virginia common law fail because Mr. Ballock admitted in the underlying criminal proceeding that probable cause existed for the issuance of the arrest warrant against him.

WHEREFORE, Defendants State Trooper Michael Kief, State Trooper Ronnie M. Gaskins, and State Trooper Chris Berry respectfully request that the Court GRANT their Motion

and enter an Order dismissing Plaintiff Scott T. Ballock's claims against them and that an award for costs, including any attorney fees, be awarded to them.

Dated this 8th day of June 2017.

Respectfully submitted,

/s/ Mark G. Jeffries

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Counsel for Defendants State Trooper Michael Kief, State Trooper Ronnie M. Gaskins, and State Trooper Chris Berry

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CHRIS BERRY,**

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that, on the 8th day of June 2017, I filed the foregoing “Defendants’ State Trooper Michael Kief, State Trooper Ronnie M. Gaskins, and State Trooper Chris Berry’s Motion to Dismiss” with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

P. Todd Phillips, Esq.
P. TODD PHILLIPS & ASSOCIATES
235 High Street, Suite 322
Morgantown, WV 26505

Counsel for Defendant Ellen Ruth Costlow

I further certify that, on the 8th day of June 2017, I served the same upon Plaintiff Scott T. Ballock, *Pro Se*, via certified U.S. mail, return receipt requested, by depositing a true copy thereof, postage prepaid, in an envelope addressed as follows:

Scott T. Ballock
51 Summit Overlook Drive
Morgantown, WV 26508

Pro Se Plaintiff

/s/ **Mark G. Jeffries**

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